

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA**

Andrew Marshall McElrath,)	Civil Action No.: 5:13-317-MGL
)	
Plaintiff,)	
)	
v.)	
)	<u>ORDER</u>
)	
Chris Golden, <i>et al.</i> ,)	
)	
Defendants.)	
)	

Plaintiff Andrew Marshall McElrath (“Plaintiff”), proceeding pro se, filed this action pursuant to 42 U.S.C. § 1983 alleging violations of his constitutional rights. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B), D.S.C., this matter was referred to United States Magistrate Judge Kaymani D. West for pre-trial handling and a Report and Recommendation (“Report”). The Magistrate Judge issued her Report on August 2, 2013, recommending that the Court grant Defendant Chris Golden’s Motion for Summary Judgement, (Doc. # 64), and dismiss Plaintiff’s Complaint without prejudice as against Defendant Chris Golden based upon Plaintiff’s failure to exhaust available administrative remedies. (Doc. # 205). The Plaintiff filed Objections, as well as numerous supplemental filings in the nature of Objections. (Docs. # 219, 223, 251, and 253).

In conducting its review, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections...The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a *de novo* determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the Report and Recommendation to which no objections are addressed. While the level of scrutiny

entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case, the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F. Supp. 137, 138 (D.S.C. 1992)

(citations omitted).

In light of the standard set forth in Wallace, the Court has reviewed, de novo, the Report and the Objections. After careful review of the Report and Objections thereto, the Court hereby **ACCEPTS** the Report. (Doc. # 205). Defendant Chris Golden's Motion for Summary Judgement is thereby **GRANTED**, (Doc. # 64), and the Plaintiff's Complaint is dismissed without prejudice as against Defendant Chris Golden. Several of Plaintiff's numerous pending motions, (Docs. # 151, 167, 187 and 203), are therefore properly terminated as **MOOT**.

IT IS SO ORDERED.

s/Mary G. Lewis
United States District Judge

November 14, 2013
Spartanburg, South Carolina